

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT PIERRE KIDD,

Plaintiff,

v.

OPINION and ORDER

JOEL SANKEY, MATTHEW HUELSMAN,
and JESSIE SCHNEIDER,

18-cv-831-jdp

Defendants.

ROBERT PIERRE KIDD,

Plaintiff,

v.

OPINION and ORDER

WAUPUN CORRECTIONAL INSTITUTION,
BRIAN FOSTER, and
PROPERTY CORRECTIONAL OFFICER,

20-cv-83-jdp

Defendants.

Plaintiff Robert Pierre Kidd, appearing pro se, is a prisoner at Waupun Correctional Institution. Kidd has two open cases in this court. This order address matters in each case.

A. Case No. 18-cv-831-jdp

In the '831 case, Kidd alleges that defendant prison officials handcuffed him, held him down, and pepper sprayed him while he was having a seizure even though prison officials were told not to handcuff him during seizures. At one point, this case contained a variety of claims related to prison officials' responses to Kidd's seizures, but now the only claims remaining are claims that I transferred into the '831 case from a previous lawsuit Kidd had filed, No. 17-cv-597-jdp. Defendants have moved for summary judgment, but rather than file a brand-new summary judgment motion, defendants filed a notice stating that they intended to

rely on the summary judgment materials that they had previously filed in the '597 case. Dkt. 123 in the '831 case. The court granted Kidd an extension of time to submit his materials opposing defendants' summary judgment motion. Dkt. 130 in the '831 case. That extended deadline has passed, and defendants have filed a motion to dismiss the case for Kidd's failure to prosecute it, stating that Kidd did not respond to their summary judgment motion. Dkt. 131.

Defendants are not quite correct that Kidd failed to respond. Kidd mailed to this court a document that he calls his own motion for summary judgment, but he captioned that document with the '597 case number and the court docketed that filing in the '597 case. Dkt. 131 in the '597 case. Kidd's misnumbering is understandable because defendants' repurposed summary judgment materials are all captioned with the '597 case number. I will deny defendants' motion to dismiss because Kidd is clearly trying to oppose their motion for summary judgment. I will direct the clerk of court to docket Kidd's filing in the '831 case.

But Kidd's response does not comply with this court's procedures to be followed on summary judgment. His filing is a brief that is also a declaration because it is sworn under penalty of perjury. But Kidd does not provide a separate document containing numbered responses to each of defendants' proposed findings of fact, nor does he submit a document containing his own numbered proposed findings of fact. I will attach to this order another copy of the court's summary judgment procedures, and I will give Kidd a final chance to submit summary judgment opposition materials that comply with the court's procedures.

B. Case No. 20-cv-83-jdp

In the '83 case, Kidd alleges that prison staff ignored danger caused by his seizure disorder and confiscated some of his property. I dismissed Kidd's complaint because it violated

the Federal Rules of Civil Procedure, in part because it raised claims that belonged in two different lawsuits. *See* Dkt. 20 and Dkt. 37 in the '83 case. I directed Kidd to explain which of his two sets of allegations he wanted to pursue in the '83 case and to explain precisely who he intended to name as a defendant in the lawsuit, because his complaint discussed officials who were not named in the caption. *Id.* Kidd did not respond with a filing addressing these issues. Instead, he now asks to dismiss the lawsuit. Dkt. 38 in the '83 case. The court will accept that notice of voluntary dismissal.

ORDER

IT IS ORDERED that:

1. Defendants' motion to dismiss case No. 18-cv-831, Dkt. 131 in the '831 case, is DENIED.
2. The clerk of court is directed to docket Dkt. 131 in case No. 17-cv-597-jdp into the '831 case.
3. Plaintiff Robert Pierre Kidd may have until October 18, 2021, to submit his materials opposing defendants' motion for summary judgment in the '831 case. Defendants may have until October 28, 2021, to file their reply.
4. The clerk of court is directed to close case No. 20-cv-83-jdp.

Entered October 4, 2021.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge